

DAVID BURCHARD  
CHAPTER 13 TRUSTEE  
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**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SANTA ROSA DIVISION**

In re:

BRIAN and TARA HAUB  
2216 FREMONT DRIVE  
SANTA ROSA, CA 95409

###-##-1441 ###-##-0316  
Debtor(s).

Case No.: 10-1-3397AJ13  
Chapter 13

***THIRD AMENDED*** NOTICE BY DAVID  
BURCHARD, CHAPTER 13 TRUSTEE, OF  
CHAPTER 13 PLAN DEFICIENCIES

**CONFIRMATION HEARING:**

Date: 1/26/2011  
Time: 1:30 PM  
Place: United States Bankruptcy Court  
99 South E Street  
Santa Rosa, CA 95404

DAVID BURCHARD, Chapter 13 Trustee in the above-entitled action, cannot recommend Confirmation of the Chapter 13 Plan proposed hereunder by Debtor(s) for the following reason(s).

1. Schedule J indicates the debtors' monthly expenses are \$5,005.00, including the plan payment, while Schedule I lists net monthly income totaling \$4,063.00. The Trustee questions the feasibility of the debtors being able to make the plan payments under these circumstances. 11 U.S.C. §1325(a)(6) provides that a plan cannot be confirmed if the debtor will be unable to make plan payments.
2. At the 341 Meeting of Creditors, the debtors indicated their 2009 state tax return has not been filed. The Trustee requests that debtors provide proof of said filing.
3. At the 341 Meeting of Creditors, Mrs. Haub indicated she ceased working in May 2010. The Trustee requests that a filed debtors' declaration is provided that indicates no income was received in this time period.
4. The plan does not meet the requirements of 11 U.S.C. §1325(d), as the plan payment is insufficient to pay all priority and administrative claims, and therefore, the plan is not feasible. The source of the non-feasibility appears to result from the following factor: The Internal Revenue Service is scheduled in the amount of \$10,000.00, however, said creditor has filed a priority proof of claim in the amount of \$12,355.58. Additionally, pre-petition arrearages due BAC Home Loans are scheduled in the amount of \$15,600.00, however, said creditor has filed a secured proof of claim listing arrearages in the amount of \$24,483.57. The Trustee requests that debtors' counsel amend the plan and provide treatment to these creditors, or, in the alternative, file objections to said claims.

PLEASE TAKE NOTICE that, without prior notice, at the above-referenced confirmation hearing date assigned to your Chapter 13 case, the Court may DISMISS the above-referenced case upon making a determination that Debtor(s) has/have not presented a feasible Plan, Debtor(s) has/have not made the required payments under the Plan, Debtor(s) has/have violated the statutory debt limitations set for a Chapter 13 case, Debtor(s) has/have not filed this proceeding in good faith, Debtor(s) has/have not provided documents and/or Schedules and Plan as required under the Bankruptcy code, and/or Debtor(s) has/have not provided the Trustee with Payment Advices or Declarations.

Dated: December 7, 2010

DAVID BURCHARD

DAVID BURCHARD, Chapter 13 Trustee

### Certificate of Mailing

I, WENDY KARNES, the undersigned, certify that:

I am over the age of 18 years and not a party to this action. I am employed by the Trustee whose business address is 393 Vintage Park Drive, Suite #150, Foster City, CA. On the date set forth below, I served a copy of the NOTICE BY DAVID BURCHARD, CHAPTER 13 TRUSTEE, OF CHAPTER 13 PLAN DEFICIENCIES, and this Certificate of Mailing, on the persons listed below by following our ordinary business practice for service, which is either deposited in the ordinary course of business with the U.S. Postal Service by first class mail or served by electronic transmission from the Court, if applicable. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

BRIAN and TARA HAUB  
2216 FREMONT DRIVE  
SANTA ROSA, CA 95409

DANIEL B. BECK  
BECK LAW, P.C.  
2681 CLEVELAND AVE.  
SANTA ROSA, CA 95403

United States Trustee  
235 Pine Street, Suite 700  
San Francisco, CA 94104

Dated: December 7, 2010

WENDY KARNES

WENDY KARNES